

Diona Mullins
Policy Advisor
Office of Health Policy
275 E. Main St., 4W-E
Frankfort, KY 40621

December 2, 2014

Dear Ms. Mullins,

Thank you for the opportunity to allow St. Elizabeth Healthcare to offer our input to modernize the Certificate of Need (CON) process in light of passage of the Affordable Care Act (ACA). The ACA contains significant changes in the payment system that will significantly affect the way care is delivered in Kentucky and across the nation. There will be a greater emphasis on primary care, an enhanced focus on quality of care, and an incentive to better coordinate care across the continuum of care. We are happy to work with the Cabinet to try to find ways to improve the CON process to support these changes, but want to emphasize the CON process will remain an important source of stability and predictability for providers as they seek to participate in these advanced delivery models, especially as we assume financial risk for the health of a given population.

St. Elizabeth Healthcare has started the development of an integrated clinical network which will help us be prepared to operate in the new delivery system and assure access to high quality care in our community. The CON process will ensure residents of Northern Kentucky will have access to care and to prevent the proliferation of unnecessary or duplicative health care services which would add unnecessary capacity to the system and reduce our ability to assume risk.

While it seems logical that more competition is better, in fact, it actually could drive up costs in the system and reduce access to those who cannot pay. The hospitals are the safety net providers of any community and provide care regardless of ability to pay. If a for-profit or out-of-state not-for-profit competitor enters the market, they usually do not accept patients with Medicaid or

better together | www.stelizabeth.com

ST. ELIZABETH | COVINGTON
1500 James Simpson, Jr. Way
Covington, KY 41011
P: 859.655.6800

ST. ELIZABETH | FALMOUTH
512 South Maple Avenue
Falmouth, KY 41040
P: 859.572.3500

ST. ELIZABETH | FT. THOMAS
85 North Grand Avenue
Ft. Thomas, KY 41075
P: 859.572.3100

ST. ELIZABETH | EDGEWOOD
1 Medical Village Drive
Edgewood, KY 41017
P: 859.301.2000

ST. ELIZABETH | FLORENCE
4900 Houston Road
Florence, KY 41042
P: 859.212.5200

ST. ELIZABETH | GRANT
238 Barnes Road
Williamstown, KY 41097
P: 859.824.8240

uninsured which leaves a greater burden on the hospitals to cover the costs of care for the low-income or uninsured patients. The only competition is for the patients with commercial insurance which destabilizes the safety net hospitals through declining volumes and reimbursement. In addition because the healthier, better insured patients could be diverted to new freestanding facilities while hospitals would be providing services for the sickest, higher acuity patients, it would further impact our ability to assume risk for the health of the population.

The expansion of Medicaid has not had an impact on volumes, but has had a positive impact on reimbursement for care that had previously been provided to those who were uninsured. This has helped St. Elizabeth and other hospitals to better be able to cover the costs of providing care to all patients in our community. Since there has been a shift in the payment of the volume vs. an increase in volume, capacity is not a concern in Northern Kentucky and in most communities across the state. If there is an issue, the State Health Plan will allow for expansion of needed services. The Certificate of Need process allows for competition when it is warranted, but also helps assure there is a true need for a service and there is access to services.

St. Elizabeth Healthcare agrees with the findings in the study produced by Dan Sullivan for the Kentucky Hospital Association regarding the importance of the CON process in stabilizing the system as we move to new payment models based on other states' experiences and the principles of the regulations.

We also agree with the KHA the core principles identified by the Cabinet are better achieved through payment reform; we offer the following remarks and/or suggestions for modernizing the process:

- *Supporting the Evolution of Care Delivery.* The trend is to move from an acute/inpatient model to an outpatient-centric model. The CON already allows for this transition for the most part to add outpatient services that are appropriate and needed.

Suggestion: The proposal that is currently being considered regarding transitioning Critical Access Hospitals or other hospitals to Ambulatory Care Centers keeping the needed services intact such as MRI or outpatient surgery through the nonsubstantive review process will help assure continued access in a more efficient manner. St. Elizabeth Healthcare had experience with this need for change when we transitioned our North hospital in Covington to an Ambulatory Care Center. We required three CONs to keep the services needed to serve the community (Ambulatory Care Center, MRI, and a Rehab Agency) and would have needed a fourth if we had decided to offer outpatient surgery at this site. If the proposal is adopted, the efficiency and costs would have been reduced to the hospital and the Cabinet.

- *Incentivizing Development of a Full Continuum of Care.* Better care, increased value and improved population health depend on an integrated continuum of care in which providers communicate with each other and ensure patients receive timely, coordinated care in an appropriate setting.

Suggestion: Payment structures are evolving to support these goals and the CON process has not hindered the development of partnerships in our area. St. Elizabeth supports the changes that were identified and submitted earlier in the year with regards to expansion of Home Health Services in the State Health Plan. Exempting this service from the CON process raises concerns about the quality and potential fraud that can occur when this happens. A recent article in The Cincinnati Enquirer highlighted this potential which occurred in Michigan, an unregulated state for home health. In Northern Kentucky, we do have a problem placing patients in skilled nursing facilities and often have to send patients to Ohio for care so increased availability in this area would assist in further development of the continuum of care.

- *Incentivizing Quality.* Healthcare is rapidly moving toward adoption of objective quality metrics. The CON program could seek to support those providers that demonstrate attainment of robust quality indicators by incorporating these standards into the State Health Plan.

Suggestion: This concept was implemented in both the updates to the criteria for Therapeutic Catheterization without Open Heart Surgery and for the Level III NICU service. St. Elizabeth supports additional quality metrics being added to some of the other services included in the State Health Plan.

- *Improving Access to Care.* For a number of reasons, Medicaid members have, on average, a more challenging path toward access to care.

Suggestion: Requiring a demonstrated certain level of care be provided to Medicaid or uninsured patients through the CON process will at least be an attempt to level the playing field, however, it is very difficult to know if the provider is new to the market if they will follow through on the promise. This may have to be reinforced through the annual licensure process to assure compliance. Another suggestion is to have all providers that obtain a CON be subject to the provider tax.

- *Improving Value of Care.* As healthcare transitions from a fee-for-service model to a value-based purchasing framework, payers will continue to seek evidence of value in health services.

Suggestion: Requesting proposed pricing or charges is already a part of the CON application process and a part of the financial feasibility of the project. A better way might be to post charges or develop a tool to help consumers compare charges similar to what is already available through Medicare.

Promoting Adoption of Efficient Technology. Increased adoption of technologies such as electronic medical records, participation in information sharing platforms such as the Kentucky Health Information Exchange, and participation in large-scale data projects such as an All Payer Claims Database are critical elements of a modernized, higher quality and more efficient health system.

Suggestion: The adoption of these technologies is already occurring and the only possible suggestion regarding CON is to require participation in these projects as a part of approval or licensure.

- *Exempting Services for which CON is no longer necessary.* Kentucky regulates via CON many services that even CON states exempt.

Suggestion: The Office of Health Policy every year considers strategies to adjust the CON process to be more reflective of modern healthcare trends. In fact, if you look at the number of services reviewed through the full CON process compared to other states, we are about in the middle. It is appropriate to move some services to the nonsubstantive review process (e.g. transferring locations within a county) or eliminate them (e.g., CT scans) at times. However, at this time, there are no services that fall into this category. Of those recommended by the Deloitte study, it is specifically noted that Ambulatory Surgery Centers need to remain a part of the plan for all of the reasons stated in the beginning of this letter. Exempting this service will put safety net hospitals in jeopardy.

Thank you for your consideration of this most important issue for St. Elizabeth Healthcare and the patients we serve.

Sincerely,

A handwritten signature in black ink, appearing to read "John S. Dubis", written in a cursive style.

John S. Dubis

President and Chief Executive Officer